



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MARCH 4, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0330

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 Standards and Duties. 6. Employees May Use Discretion	Not Sustained (Lawful and Proper)
# 2	5.001 Standards and Duties. 10. Employees Will Strive to be Professional	Not Sustained (Training Referral)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant alleged that the Named Employee was unprofessional with her as she was attempting to park her vehicle and failed to consider her infirmity before issuing her a traffic citation.

### **SUMMARY OF INVESTIGATION:**

In-Car Video (ICV) depicts the Complainant's vehicle parked on the crosswalk with hazard warning lights flashing on the corner of 7<sup>th</sup> Avenue. Named Employee #1 (NE#1) was attempting turn his SPD vehicle right onto 7<sup>th</sup> Avenue. NE#1 was accompanied by a front seat passenger, Witness Officer #1 (WO#1), and rear seat passenger Witness Officer #2 (WO#2). NE#1 was behind another vehicle, which also could not turn onto 7<sup>th</sup> Avenue owing to the Complainant's vehicle obstructing the left lane. 7<sup>th</sup> Avenue has a single lane of traffic for each direction. Intermittent traffic was moving in the right lane.

Once the right-hand lane was clear of traffic, NE#1 pulled his vehicle around the corner and parallel to the Complainant's vehicle. NE#1 appeared to say something to the Complainant through the open passenger window before backing up and parking behind the Complainant's vehicle. Body Worn Video (BWV) and ICV captured NE#1's engagement with the Complainant, however, audio did not begin until 1 minute due to a standard buffering period. This engagement, visual only, is captured by WO#2's BWV. The Complainant alleged that, at this juncture, the NE#1 "yelled out" to her to "move your car." On NE#1's instructions, the Complainant moved her vehicle approximately one car length away from the crosswalk and parallel to 2 parked vehicles. Neither parked vehicle had any indication lights initiated and as the traffic stop was initiated a community member was seen getting into one of the parked vehicles.

On exiting the vehicle and speaking with the complainant NE#1 explained to the Complainant that she was being recorded and that he was stopping her because she failed to move on when he had asked her to do so. The Complainant responded that "she needed to get this parking spot as [the other driver] was pulling out, and I didn't want to walk too far." NE#1 stated to the Complainant that "she could not block traffic just waiting for someone."



The complainant responded that she “did not know that.” NE#1 requested the Complainant’s driver license. NE#1 went back to his vehicle and, in the process of walking back to his vehicle, is heard saying “No.” During his OPA interview, NE#1 stated that this comment was in response to the Complainant asking a second time if she could move her vehicle to an open parking spot. From NE#1’s BWV, when he was back in the vehicle WO#1 asked NE#1 “Does she not understand what’s going on?” to which NE#1 replies, “She is obsessed with getting a parking spot.” When checking the Complainant’s license, NE#1 stepped outside the vehicle and called at the complainant, “If you pull away from the traffic stop, I will arrest you.”

NE#1 then returned to the Complainant’s vehicle and informed her that she would be getting a citation in the mail. The Complainant asked, “I’m getting a ticket?” to which NE#1 responded, “Yes, you are not getting it right now because there are other things I’d rather be doing right now” and proceeded to explain the reasons for the citation to the Complainant. The Complainant enquired as to whether the NE#1 was aware she had “a pristine driving record” to which he explained the available options to her. NE#1 left the traffic stop without further incident.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### **5.001 Standards and Duties. 6. Employees May Use Discretion**

The Complainant alleged that NE#1 used unreasonable discretion.

As indicated in SPD Policy 5.001-POL-6, “[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” This policy further states that “[d]iscretion is proportional to the severity of the crime or public safety issue being addressed.” (SPD Policy 5.001-POL-6.)

Based on the above information, OPA does not believe that NE#1 acted unreasonably when decided to issue a citation to the Complainant. According to both the Complainant and NE#1, when NE#1 initially pulled up beside the Complainant, he directed her to move the vehicle which she failed to do so. NE#1’s citation for “Block Traffic-Stop/Park” was directly related to the Complainant’s actions. When the NE#1 stated to the Complainant that “she could not block traffic just waiting for someone,” the Complainant responded that she “did not know that.” It is unreasonable to believe that a fully licensed driver believes that traffic can be obstructed waiting for a parking space. OPA acknowledges that the Complainant explained to NE#1 that she had a broken knee. However, BWV does not support the Complainant’s explanation that she showed NE#1 her cane. NE#1 stated in his interview that he did not see crutches, a cane or anything to make him believe the Complainant’s mobility was impaired.

Accordingly, OPA recommends that this allegation be Not Sustained- lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**



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**Named Employee #1 - Allegation #2**

**5.001 Standards and Duties. 10. Employees Will Strive to be Professional**

It was alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (Id.) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (Id.)

The Complainant alleged that NE#1 initially pulled next to her and “yelled out” at her to “Move her car.” This interaction was not audio recorded. Neither WO#1 or WO#2 recalled what NE#1 said when he initially pulled up to speak to the Complainant. The Complainant stated that all she wanted to do was “explain that I have a broken knee, and that I’m not just sitting here waiting on parking spot.” The Complainant then states that she then yelled out her window that “I need this parking spot.” The Complainant stated that pulled beside her vehicle, that NE#1 “got “enraged and looked upset” and “jumped out” of his car to talk with her. The Complainant stated that NE#1 “got in her face” was “enraged” and it was “obvious that he was upset”.

BWV does not support the Complainant’s recollection of events. BWV and ICV depicts NE#1 standing by, without encroaching, the driver’s window. When NE#1 exited his vehicle and spoke with the Complainant, neither party was animated. NE#1 is shown explaining to the Complainant that the event was being recorded and the reasons for the stop. This interaction lends itself to suggest that the initial, non-audio recorded “conversation” through the vehicle windows had not been derogatory, contemptuous, or disrespectful. Indeed, the Complainant herself stated that both her and NE#1 were “yelling” at each other from their cars and that conversation, as explained above, was relatively straightforward with respect to what each party is alleged to have stated.

OPA finds that NE#1’s instruction to the Complainant of “If you pull away from the traffic stop, I will arrest you” may be interpreted as a “firm but fair” approach, as at that juncture, the Complainant appeared very focused on moving her vehicle to secure a parking bay in the middle of the traffic stop.

OPA however finds NE#1’s statement of “Yes, you are not getting [the citation] right now because there are other things I’d rather be doing right now” a poor explanation to a member of the public as to why the citation was not being issued on the spot. Although this may have been the NE#1’s belief, its utterance bordered on disrespecting the Complainant that he was in the middle of dealing with.

Accordingly, OPA recommends that this allegation be Not Sustained (Training Referral).

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 5.001(10) with NE#1, and provide any further retraining and counseling that it deems appropriate. The



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retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained (Training Referral)**